

RAILROAD AND TELEGRAPH LINE FROM THE MISSOURI
RIVER TO THE PACIFIC OCEAN.

APRIL 26, 1884.—Referred to the House Calendar and ordered to be printed.

Mr. THOMPSON, from the Committee on Pacific Railroads, submitted
the following

REPORT:

[To accompany bill H. R. 6771.]

The Committee on Pacific Railroads, to whom were referred so much of the annual message of the President of the United States as relates to the Pacific railroads, and House bills Nos. 35, 516, and 3801, have had the same under consideration, and beg leave to submit the following report:

On the 1st day of July, 1862, Congress passed "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," by which lands and bonds were granted to certain railroads therein mentioned to aid in their construction. By section 6 of said act it was provided "that the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, &c., and all compensation for services rendered for the Government shall be applied to the payment of said bonds and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least 5 per cent. of the net earnings of said road shall also annually be applied to the payment thereof."

The grant in lands and bonds was doubled by the act of July 2, 1864, and many other powers given the companies, among which was to place a first mortgage upon their railroads equal in amount to the subsidy in bonds given by the Government, and prior in lien to the lien theretofore held by the Government. (See section 10, act of 1864.)

They were also granted powers of consolidation, and were compelled by the twelfth section to operate all the roads and branches, as far as transportation was concerned, as a continuous route.

It is evident that when the bonds were given to aid the roads the intention was for them to provide out of their assets for the payment of the interest as it fell due, and also to provide a 5 per cent. sinking-fund which would retire the principal at the end of twenty years from the completion of the roads. It was stated upon the floor of Congress, and generally believed, that the compensation then being paid out for transportation of mails and Government supplies, all of which would be carried by the roads, along the routes aided, was nearly

double the interest on the subsidy bonds, and that to retain *one half of said compensation* would be sufficient in the hands of the Government to meet the interest payments, leaving the *5 per cent. of net earnings* to liquidate the principal and any interest left unsettled. So by the fifth section of the act of 1864 it was provided "that only one-half of the compensation for services rendered for the Government by said companies shall be required to be applied to the payment of *the bonds* issued by the Government in aid of the construction of said roads."

The words in the act of 1862 to which *all compensation* was to be applied were "*bonds and interest*;" the term here used is simply "*bonds*," nothing being said about interest; from which we might reasonably conclude that there was a fixed determination to have the interest paid from time to time, if it took all the compensation to do it, but a willingness to remit one-half, so far as the bonds themselves were concerned, leaving the 5 per cent. to take care of them.

Under these acts the Union Pacific, the Central Pacific, the Kansas Pacific (now consolidated with the Union Pacific), the Sioux City and Pacific, and the Central Branch of the Union Pacific have received bonds upon which the Government has paid interest from time to time, some of which has been repaid, but a large portion of which has not. The following table will exhibit the status of each June 30, 1883, which is sufficiently near to show the necessity of some action being taken by Congress to secure repayment to the Government of the large and increasing debts from these roads, if repayment is desired or expected :

Name of railway.	Principal outstanding.	Interest accrued and not yet paid by the United States.	Interest paid by the United States.	Interest repaid by transportation to credit of bond and interest account.		Balance of interest paid by the United States.
				By transportation services.	By cash payment, 5 per cent. of net earnings.	
Central Pacific	\$25,885,120 00	\$776,553 60	\$23,452,555 27	\$4,592,158 25	\$648,271 96	\$18,212,125 06
Western Pacific	1,970,560 00	59,116 80	1,668,248 94	9,367 10	1,658,881 94
Union Pacific	27,236,512 00	817,095 36	24,957,850 41	8,933,292 87	16,024,557 54
Kansas Pacific	6,303,000 00	189,090 00	6,129,333 09	2,969,049 59	3,160,283 50
Central Branch U. P. .	1,600,000 00	48,000 00	1,549,808 26	152,157 10	6,926 91	1,390,724 25
Sioux City & Pacific.	1,628,320 00	48,849 60	1,464,297 49	121,355 39	1,342,942 10
Total	64,623,512 00	1,938,705 36	59,222,093 46	16,777,380 20	655,198 87	41,789,514 39

This table is from the public-debt statement and Report of Commissioner of Railroads, 1883, page 7.

After the bonds were received by the roads, and transportation commenced, the officers of the Treasury gave such a construction to the act of 1864 that they only retained one-half the compensation for any purpose, and the 5 per cent. of net earnings. It was found that this sum was wholly inadequate to repay the interest which the Government had to pay out semi-annually for the roads, and by an act of March 3, 1873, afterwards carried into section 5260 of the Revised Statutes, Congress again directed that the Secretary of the Treasury withhold "all payments to any railroad company, and its assigns, on account of freights or transportation over their respective roads, of any kind, to the amount of payments made by the United States for interest upon bonds of the United States issued to any such company, and which shall not have been reimbursed, together with the 5 per

cent. of net earnings due and unapplied as provided by law," and then provided for suit to be brought by any company for such transportation, which is practically a declaration by Congress that the whole should be retained and applied, if it can legally be done, *to the payment* of interest. After the passage of this act, the officers of the Treasury withheld *all* payments from the roads on the accounts mentioned, and applied them to the payment of interest until May 7, 1878, when Congress passed what is known as the "Thurman sinking-fund act," to which act this bill is an amendment.

THURMAN ACT.

We regret to say this act has not fully met the expectations of its authors. From some cause three of the railroads which received aid in bonds from the Government were omitted. We see no reason why they should not be embraced by the law requiring a sinking-fund. It but extends over them and compels them to follow that wise and conservative policy which would provide the means to meet large debts which must some day be paid. Instead of dividing all their earnings among the stockholders of the present day, they should lay by something for the bondholders of the future. No harm can follow from placing them under the law, and if they grow richer the Government debt may some day be made good.

KANSAS PACIFIC.

The Kansas Pacific, according to the last published Report of the Commissioner of Railroads, upon the bond-subsidized portion of the road, had a net earning of \$1,217,684.92 (see pages 29 and 30, report of 1883); deducting therefrom \$378,180 interest on first-mortgage bonds leaves \$839,504.92 to which the per cent. due the sinking-fund and interest requirements apply; or, in other words, the Government will pay out for the Kansas and Pacific Railroad \$378,180 annually as interest, and hold back \$293,826.72, on the basis of that year's earnings. We believe, however, the future of this road will soon make it able, at the rate per cent. fixed, to meet the entire interest charge.

CENTRAL BRANCH UNION PACIFIC.

The Central Branch of the Union Pacific is operated by the Missouri-Pacific system, and is about 100 miles long, running from Atchison to Waverly, Kans. A statement of its condition will be found on pages 62 to 66, inclusive, of the Report of the Commissioner of Railroads for 1883. The last statement of its net earnings shows \$236,193.77, from which deducting \$96,000, interest on the first-mortgage bonds, leaves \$140,193.77 as a surplus fund. We think 35 per cent. of this can be applied safely to the Government requirements.

SIOUX CITY AND PACIFIC.

This road has been aided with bonds to the extent of 101.77 miles. A statement of its accounts will be found on page 75 of said report, which shows an increase in net earnings last year of over 200 per cent. The net earnings on the subsidized portion of the road was \$108,895.94, and as the interest on the first-mortgage bonds must be provided for before any requirement for sinking-fund purposes is taken, there will be no

increase in the amount realized at present under this act. However, no reason exists why it should not apply, and as soon as the earnings reach a point where something can be realized a reduction of its liability will begin.

ENLARGEMENT OF THE POWERS OF INVESTMENT.

The low rates of interest realized on the sinking-fund investments have deterred some of the companies, in a measure, from a prompt payment of dues and compliance with the terms of the law. We refer to a statement in the Report of the Commissioner, on pages 249 and 250, for the year 1883, also page 12, for a full showing of the condition of the sinking-fund.

While the object in establishing the sinking-fund was not to make money for these corporations, but to compel them to put aside a fund to meet debts which they were not providing for, and which could not be met if all the earnings of the roads were divided among the stockholders, yet it is to the interest of all that these funds should be made as reasonably productive as possible. The Secretary of the Treasury should not be sent into the market to deal in securities, selling and investing as opportunity for speculation and change in commercial values render such action favorable, but there should and can be a reasonable enlargement of his discretion, which may render the fund more profitable. We have made such a provision, and further provided that the companies may pay the interest itself as a sinking-fund investment if they choose, with a right to have it refunded at any time that the rights of prior creditors seem to require it.

UNPAID INTEREST ACCOUNTS.

The act of May 7, 1878, was expected to keep down the indebtedness of the roads, but it has failed to do so. The unpaid interest accounts have continued to increase from year to year, and unless the amount now required of the companies is largely increased will so continue until in 1898, when the subsidy bonds, on an average, mature. It amounts now to \$102,376,312.94. This is an enormous debt, increasing at the rate of \$1,000,000 a year, maturing in about fourteen years, for the payment of which no provision is being made by the companies voluntarily. They only do what the statute compels them, and this slowly and with bad grace. There seems to be a fear, possibly with some foundation, that the companies are discriminating in through freights against the subsidized roads. The receipts upon this portion of the large roads upon which the lien exists are declining, the through freights being diverted over parallel lines owned by the corporations, thus giving them the advantage over the subsidized portion in the division of profits, and enhancing their value at the expense of that portion on which the Government lien exists, which is correspondingly depreciated. How far it may be to the interest of the owners and controllers of the Union and Central Pacific to build parallel roads, surround and cut off the trade legitimately belonging to the subsidized roads, as population increases in the west and States grow up, and thereby render these lines useful only to their systems and profitable only to them, can only be determined by their present conduct. If they are strangling them now, it is not without a purpose, and we may expect a continuation of this policy. The tendency of this is to endanger the final payment of the debt which will soon be due the Government. The

policy of the Government should be to compel such substantial reductions of the debt, or of those prior in lien, as will leave the remainder in 1898 so small in comparison with the value of the franchises that self-interest will compel the corporations to adjust it in order to retain control of the road.

We therefore recommend that the 25 per cent. fixed in the fourth section of the Thurman act be increased to 35 per cent. The affairs of this portion of the Union Pacific are about as follows:

Bond-subsidized road, miles	1,038 ⁴⁵⁸ ₁₀₀₀
Bonds given	\$27,236,512
Stock issued	36,762,300

On which stock dividends have been declared and paid at the rate of 7 per cent. per annum, as well as upon other stocks issued to the stockholders thereof. We append a table furnished in the Commissioner's Report, page 26:

Statement of dividends paid on its capital stock by the Union Pacific Railway Company.

	Capital stock outstanding.	Annual rate of dividend.	Amount paid.
		<i>Per cent.</i>	
Year ending December 31, 1877			\$2,939,600 00
Year ending December 31, 1878			1,837,250 00
One-half year ending June 30, 1879	\$36,762,300 00	6	1,102,350 00
One-half year ending December 31, 1879	36,762,300 00	6	1,102,350 00
One-half year ending June 30, 1880	50,762,300 00	6	1,386,784 50
One-half year ending December 31, 1880	50,762,300 00	6	1,658,953 50
One-half year ending June 30, 1881	60,673,745 00	6	1,948,494 62
One-half year ending December 31, 1881	60,868,500 00	7	2,127,639 50
One-half year ending June 30, 1882	60,868,500 00	7	2,130,387 00
One-half year ending December 31, 1882	60,868,500 00	7	2,130,401 00
One-half year ending June 30, 1883	60,868,500 00	7	2,130,394 00
Total			20,494,604 13

It must not be forgotten that the stock issued to the original owners, many of whom and some of the largest of whom, like Dillon and the Ames, still hold it, was issued contrary to the requirements of the act of 1862, as dividends upon the worse than doubtful operations of the Crédit Mobilier, and not paid for in cash; that upon the consolidation of the Kansas and Pacific, in 1880, Mr. Gould owned about 80 per cent. of its stock, which had been selling as low as 13 $\frac{1}{4}$ per cent. shortly before the consolidation, and the Denver Pacific was in about the same condition, for which stocks, almost worthless, the stock of the Union Pacific Railway was given at par, which increased the stock of the new company to fifty millions, in round numbers, which was increased to its present figure of \$60,868,500 by a new issue, for some purpose not disclosed in the Report of the Commissioner of Railroads. In addition to these large dividends the company has from its earnings a large surplus of over a million and a half dollars per annum.

The 1,038 miles of bond-subsidized road is the principal contributor to those profitable results. The net earnings on this portion of the road in 1883 was (see Commissioner's Report, page 28), after deducting all expenses and interest to prior bondholders, \$8,129,246.19; after deducting the sinking-fund and interest requirements of \$2,032,311.55, would leave over \$6,000,000. In this large showing of the earnings of this road (see pages 26, 27, and 28, Commissioner's Report, 1883) we have taken no account of the lands. We are told by the Commissioner (see Report of

Auditor of Railroads, 1880, page 25) that at the consolidation there had been sold about 3,300,000 acres out of 19,000,000 granted, which had realized \$13,000,000. There was 16,000,000 left, which, if sold at the same rate, would nearly pay the bonded debt twice over.

The cost of the Union Pacific for building and equipping was \$51,000,000 in cash. Estimating on a basis of the Oakes Ames, Davis, and Hoxie contracts (*Crédit Mobilier*), it was \$118,682,223.96. In 1879 the Auditor of Railroad Accounts in his report says: "The cost of building and equipping a railroad like the Union Pacific main line from Council Bluffs to Ogden, with similar grades and on same route, the whole of it laid with steel rails, may be stated approximately at \$32,000,000." (See report of Secretary of Interior, 1881, page 577.) It could be built for much less now; steel rails and other expenses are 50 per cent. less.

The first-mortgage bonds were over \$27,000,000, the Government subsidy over \$27,000,000. These funds more than built the road. The parties then issued \$10,000,000 of land-grant bonds and \$10,000,000 of income bonds (since replaced by the sinking-fund bonds), which they divided in addition to the \$36,000,000 of stock. With this record it behooves the Government to take care of itself. The 35 per cent. will take about \$2,844,237.10 from the Union Pacific per annum. The Government now pays out about \$1,634,190.72.

But the company is behind in back interest not repaid \$16,024,557.54; the additional requirement will about provide a fund to pay this at the time the bonds mature in 1898. The Commissioner in his late computations (*Miscellaneous Document No. 44, House of Representatives*) says the amount due from the Union Pacific Railway under the law as it now stands will be \$57,544,181.68; this includes the Kansas Pacific. Under this act, if complied with, the debt will not exceed \$33,000,000, the principal of the bonds, and we may reasonably hope for its payment at the date of maturity.

CENTRAL PACIFIC.

The bond-subsidized portion of the Central Pacific is 860.66 miles, upon which bonds have been given amounting to \$27,855,680, and interest paid and not yet repaid to the amount of \$19,871,007. We are glad to say this road has complied with the United States requirements, and, in addition thereto, puts aside about \$1,000,000 per annum to pay its bonded debts, having a sinking fund of its own amounting to over \$6,000,000.

The earnings of the subsidized portion of the road will be found on page 43 of the Commissioner's Report for 1883, in which it appears that, after deducting all expenses and costs and the interest on the bonds prior in lien to the Government bonds, there was a net earning of \$3,171,680.95. Thirty-five per cent. of this sum will not meet the interest yearly paid out by the Government for this road, viz, \$1,671,340.80, but the large sum laid by in its own sinking-fund voluntarily, and its compliance with the requirements of the acts heretofore passed, taking into consideration the value of its land grant, amounting to over \$26,000,000, lead us to believe that the debt due the Government will be adjusted at maturity. It pays its stockholders a large dividend,

and has continued to do so for some years. We exhibit a table from the Commissioner's Report:

Date.	Capital stock outstanding.	Annual rate of dividend.	Amount paid.
		<i>Per cent.</i>	
One-half year ending December 31, 1877.....	\$54, 275, 500	6	\$2, 171, 020 00
February 1, 1880.....	59, 275, 500	6	1, 628, 265 00
August 1, 1880.....	59, 275, 500	6	1, 778, 265 00
February 1, 1881.....	59, 275, 500	6	1, 778, 265 00
August 1, 1881.....	59, 275, 500	6	1, 778, 265 00
February 1, 1882.....	59, 275, 500	6	1, 778, 265 00
August 1, 1882.....	59, 275, 500	6	1, 778, 265 00
February 1, 1883.....	59, 275, 500	6	1, 778, 265 00
Total.....			14, 468, 875 00

The amount of increased requirement under this act is insignificant compared with the dividends and resources of the company.

CLAIMS OF ROADS.

The accounts between the Government and the railroads are in a very unsatisfactory and uncertain condition. The complications arise principally out of the act of March 3, 1873, which has since been carried into the Revised Statutes as section 5260. The companies claim that this act was an attempted modification, without their consent, of what they claim was a charter-contract made in the act of 1864; that by said act Congress retained only the right to withhold and apply one-half the compensation earned upon the bond-subsidized portion of the roads by services to the Government; therefore they say, the officers having retained all not only on the bond-aided portion but also on the non-bond-aided road owned by them (and upon roads not embraced by the Thurman act since it took effect), they have a right to recover the same back with interest.

These claims, as stated, are about as follows:

1. One-half compensation earned on bond-subsidized roads from January 1, 1873, to June 30, 1878.....	\$1, 753, 554 79
2. Total compensation earned on non-bond-subsidized roads owned, leased, or operated by subsidized companies from January 1, 1873, to June 30, 1882.....	1, 418, 110 84
3. One-half compensation earned from July 1, 1878, to June 30, 1883, on bond-subsidized roads not covered by the act of May 7, 1878, or Thurman sinking-fund act.....	221, 572 01
Total.....	3, 393, 207 64

This is for mail transportation alone, and the data furnished does not run down to date, nor has it been practicable to obtain sufficient information to give even an approximate estimate as to the amount of compensation earned by the bond-subsidized roads for services other than mail transportation of the three several classes above set forth and for the separate periods mentioned. It is thought it will equal, if it does not exceed, the amount above allowed for mail transportation.

These claims, if allowed with interest, will be over \$10,000,000, and require large deficiency appropriations to pay the same. Shall they be paid, or in some way covered into the sinking-fund?

It has been held by the Court of Claims that the Government could not retain, for the purpose of paying interest, any portion of the com-

pensation due on the non-subsidized portion of said roads, or on roads controlled, leased, or operated by the subsidized companies; further, that it could only retain one-half the compensation for that purpose on the subsidized portions of said roads. This practically declares the act of March 3, 1873, inoperative, and leaves the Government to pay the claims above set forth, unless they can be covered into a sinking-fund. (16th Court of Claims, 360.) It must be noted, however, that the sinking-fund act was not under consideration in the decision referred to above.

We will not argue the right of the Government at this late day to establish a sinking-fund for these corporations. This right and the constitutionality of the act of May 7, 1878, have received the sanction of every branch of the Government. Passed by the Senate, agreed to by the House, signed by the President, and declared by the Supreme Court, we can safely proceed on the road marked out. If the sinking-fund can be established, the amount to be paid into it, the time when it must be paid, out of what funds belonging to the corporation not devoted to prior claims it is to be paid, the manner of its payment, are all fit subjects upon which Congress can exercise, untrammelled, its legislative discretion.

The amount now due on these claims from the Government, and which they claim has been unlawfully detained and applied to the payment of interest or sinking-fund, is, if their claim be true, but part of their funds, not devoted in any way to claims having priority over those debts provided for in the sinking-fund.

Congress has clearly as much power to direct that \$13,000,000 be paid by these companies immediately over to the sinking-fund as to direct the amount fixed by the fourth section of the act of 1878. Having directed it be paid, it has a right to retain and apply any funds due the corporations in the hands of the Government upon this payment so ordered. The dispute between the Government and the roads over these claims has stood a long time, and should be settled. In so far as they have been credited upon the interest account, there can be no better way than to transfer them to the sinking-fund, where Congress had power to have passed them before, and in doing so, in order that full justice may be done, allow them interest at 3 per cent. on all sums so withheld and applied, and upon the residue the interest realized upon investments made at the respective dates each sum was collected and paid into the sinking-fund. In other words, put the companies as near *in statu quo* as we can. Of course claims against the Government bear no interest, and the rule is not to pay it, but these claims can and should be made an exception to that rule.

This action will necessitate a restatement of the accounts between the Government and the railroads on the subject of interest; will increase largely the unpaid interest balance, and in proportion enlarge the sinking-fund.

The companies will gain the interest, the fund being made productive, which applied to the unpaid interest account only reduced the amount of a non-interest-bearing debt.

In addition to these claims the Central and Union Pacific each have claims now pending for settlement for transportation of mails, excess of charges made by them over what has been allowed by the Postmaster-General, amounting to about \$4,000,000 each.

They claim the original contract in the act of 1862 gave them the right "to reasonable compensation for like service rendered for private parties," and say transportation of mails is like express matter, and

claim express rates. The Government proposed, until recently, to pay them the same rate as is paid to other railroads. They have refused to accept it, and claim on this account, for past services, about \$8,000,000. We cannot deal with this claim, because it is repudiated by the Government. If they succeed, however, in establishing it before the courts, it can be covered into the sinking-fund by some further action of Congress.

The same reasoning which brought us to the conclusion that the thirteen millions can be covered into the sinking-fund authorizes us to provide that everything due the bond-subsidized roads, either earned themselves or earned by others for them, if due from the Government, can be retained to meet the demands upon the company and secure a compliance with the sinking-fund, and we have therefore so provided.

We reserve and hold nothing from other companies except what belongs to those for whom the sinking-fund is made. It is merely in the nature of a garnishee process, or right of equitable set-off, which any court of equity would sustain.

Your committee therefore report the accompanying bill, and recommend its passage.

H. Rep. 1431—2

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RAILROAD AND TELEGRAPH LINE FROM THE MISSOURI RIVER TO THE PACIFIC OCEAN.

MAY 13, 1884.—Referred to the House Calendar and ordered to be printed.

Mr. POST, from the Committee on Pacific Railroads, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 6771.]

The undersigned members of the Committee on Pacific Railroads, while being equally desirous with the majority of the committee of enacting such legislation as shall best conserve the interests of the Government in providing for the ultimate payment of the indebtedness of the railroads to which the subsidy bonds of the United States have been advanced in aid of the construction thereof, are yet compelled to disagree with the conclusions of the majority, and believe that the provisions of the bill reported (H. R. 6771), while aiming to reduce the indebtedness and secure to the Government the payment of an increased percentage of the net earnings of the roads, beyond that required by the act of May 7, 1878, does not, in fact, materially better the existing status of affairs, as it is at best but a temporary makeshift, and is but postponing the period when some definite action must be taken looking toward an adjustment of the debt, which must of necessity be based upon an extension of time wherein the debt may be paid.

We believe it to be of the highest importance to devise some method whereby the Government shall be secured the certain payment of the money it has advanced to the Pacific railroads, but we think that in so doing a just regard should be had for the interests of the railroad companies together with those of the Government and the people who are so largely interested in the proper maintenance of these great commercial highways. We believe that it is opportune at this time to recall a portion of the opinion of Judge Davis in delivering the judgment of the Supreme Court in United States *vs.* Union Pacific Railroad (91 United States Reports, S. C. 79,) in which the history of the inception of the Pacific railroads is related, and from which can be deduced the necessities which brought about the inauguration of the enterprise.

He says:

Many of the provisions in the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and cannot be properly construed without reference to the circumstances which existed when it was passed. The war of the rebellion was in progress, and owing to complications with England the country had become alarmed for the safety of our Pacific possessions.

The enterprise was viewed as a national undertaking for a national purpose, and the public mind was directed to the end in view rather than to the particular means for securing it. Although the road was a military necessity, there were other reasons active at the time in producing an opinion for its completion besides the protection of an exposed frontier; there was a vast unpeopled territory lying between the Mis-

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souri and Sacramento Rivers which was practically worthless without the facilities afforded by a railroad for the transportation of persons and property. With its construction the agricultural and mineral resources of this territory could be developed, settlements made where settlements were possible, and thereby the wealth and power of the United States largely increased; and there was also the pressing want, in time of peace even, of an improved and cheaper method for the transportation of the mails and of supplies for the Army and the Indians.

It was in presence of these facts that Congress undertook to deal with the subject of this railroad. The difficulties in the way of building it were great, and by many intelligent persons considered insurmountable.

The scheme for building a railroad two thousand miles in length, across mountains, over deserts, and through a country inhabited by Indians, jealous of intrusion upon their rights, was universally regarded at the time as a bold and hazardous undertaking. It is nothing to the purpose that the apprehended difficulties in a great measure disappeared after trial, and that the road was constructed at less cost of time and money than had been considered possible. No argument can be drawn from the wisdom that comes after the fact.

The project for building the road was not conceived for private ends, and the prevalent opinion was that it could not be worked out by private capital alone. It was a national work, originating in national necessities, and requiring national assistance.

The primary object of the Government was to advance its own interests, and it endeavored to engage individual co-operation as a means to an end—the securing a road which could be used for its own purposes.

We have given careful consideration to the best methods of securing to the Government the enormous debt of the Central and Union Pacific Railroad Companies, which, by general average, will mature in 1898, at which time it is estimated by the Commissioner of Railroads (Report for 1883, p. 13) there will remain due and unpaid from the Central Pacific \$45,995,904, and from the Union Pacific \$25,262,253.60, after crediting the company with all payments to that period.

It is manifest that the sinking fund created under the act of May 7, 1878, commonly known as the "Thurman act," has failed to effect the purposes intended, by reason of conditions which were not, and at the time of its passage could not be, anticipated. It was not then foreseen that the 6, 7, and 4 per cent. Government bonds might be called in and extended at a lower rate of interest.

The report of the Commissioner shows that on June 30, 1883, there remained in the United States Treasury, uninvested, to the credit of the Central Pacific, \$844,652.13, and to that of the Union Pacific, \$858,532.16, being a total of \$1,703,184.29.

It also appears that there was invested in the sinking-fund for the Central Pacific \$1,559,363.70, and for the Union Pacific \$774,165.43, being a total of \$2,333,529.13, at an average premium of 20 per cent. The fund has not thus far earned an interest equal to the premiums which were paid for the investment.

The original act of 1862 and the act supplemental thereto of 1864 evidently contemplated that the transportation services for the Government would pay the current interest upon the subsidy bonds, and that 5 per cent. of the net earnings per annum, which would pay the debt in twenty years, would render its repayment abundantly secure by extending the time to thirty years, being a margin of ten years over.

At that time the expenditure by the Government for military and other transportation greatly exceeded the interest which would accrue upon the whole subsidy, but the construction of the road so changed the condition of affairs in the region traversed thereby, and so diminished the necessities of transportation, that it fell far short of the current interest, resulting in a gradually accumulating debt, which it soon became apparent could not be paid under the provisions of the original law.

The "Thurman act" was an effort to secure the payment by an in-

crease of the percentage of net earnings which the companies respectively should pay. This act has proven to be a source of litigation between the companies and the Government and of difficult enforcement.

When these roads were first constructed they had a monopoly of all transportation by land from the Pacific coast across the mountains to meet the system of railways in the East. Since then competing roads have been constructed, which so divide the trade that notwithstanding the natural increase of business and population the net earnings of the roads have been seriously diminished, and future earnings are dependent upon conditions which cannot be anticipated, and which may possibly cause net earnings to disappear. The Northern Pacific has withdrawn from these lines a large proportion of the trade of Oregon, Washington, and Montana. The Atlantic and Pacific as a central line competes directly for the trade of San Francisco, Central California and the intervening territory.

The Southern Pacific competes directly for the trade of Southern California, and thus is withdrawn to sustain these three great competing lines a large proportion of the traffic upon which the earnings of the Central and Union Pacific Companies depend. Apart from all questions of traffic purposely diverted from the subsidized and non-subsidized roads, the necessary and natural competition between these same roads seriously impairs the earnings of both, and renders the payment of this enormous debt at least doubtful under any system which depends upon the levying of a percentage of net earnings.

It is also manifest that under this effective and persistent competition an increase of the percentage, as proposed by the bill reported by the majority, would compel these roads to increase the rates upon the subsidized portions of the roads, and as a consequence reduce the traffic on through freights, as it would seek other and cheaper routes so quick to take advantage of every embarrassment which the rival companies would thus encounter, and thereby seriously impair the ability of the roads to comply with the requirements of the law.

It is equally apparent that if a compliance is had with the terms and provisions of the law whereby the amount required is paid into the sinking fund by the roads, such a result can only be obtained by an increase upon local freight and passenger rates.

In our opinion such a possibility cannot be viewed without deep concern, for it would impose additional burdens upon the people of Kansas, Nebraska, Nevada, Colorado, and California, as well as upon those residing in the Territories through which the lines of road affected by the law are operated.

The policy of the reduction of rates now being pursued by some of the Pacific roads, and the evident tendency on the part of Congress to compel a reduction of rates on all of the roads, would inevitably have to be abandoned, to the serious injury of the local patrons. In view of this, it is submitted to the candid reason of the House, that no scheme should be adopted the effect of which would surely be to enforce the payment of the debt at the expense of the people residing along these great thoroughfares.

Furthermore, experience has demonstrated that any scheme based upon a percentage of the net earnings must necessarily place the Government at a disadvantage, and lead to endless complication and litigation, for the very good and sufficient reason that the railroad companies are directly interested in reducing these earnings to a minimum in their settlements with the Government.

The Court of Claims and the Secretary of the Treasury, adopting the opinion of the First Comptroller (see Report Railroad Commissioner, 1883, p. 244), who held that the Government cannot lawfully claim any portion of the net earnings earned upon part of the road not subsidized, put the Government at great disadvantage in dealing with the active competition which the existing roads necessarily produce.

The Union Pacific system embraces a total of 4,303.5 miles, of which only 1,436 miles are subsidized. The Central Pacific system embraces a total of 3,041.71 miles, of which only 863.98 miles are subsidized.

It thus appears that the Union Pacific leases and operates 2,867.5 miles, and the Central Pacific 2,177.73 miles, upon which the Government cannot appropriate any portion of their net earnings.

The Union Pacific main line from Omaha to Ogden, 1,024 miles, is all subsidized. But of the 629 miles of the Kansas Pacific from Kansas City to Denver, 394 miles only are subsidized. The whole line, 106 miles, from Denver to Cheyenne is not subsidized. Neither is the Utah Northern, from Ogden, Utah, to Garrison, Mont., 452.54 miles, nor the Oregon Short Line, from Granger, Wyo., to Weiser, Idaho, 575.96 miles. The Union Pacific main line is paralleled its entire distance from Ogden eastward by the Denver and Rio Grande, and the Burlington and Missouri River Railroad operated by the Chicago, Burlington and Quincy Railroad Company. The former makes a direct connection at Ogden, and competes for all the through business of that line.

Under these circumstances it is believed that no amount can be levied by coercive legislation upon the subsidized portions of these roads which will be at all adequate to the payment of the debt.

Especially is this true when we take into consideration the facility with which pooling arrangements may be made with competing lines, whereby freights can be diverted from the subsidized roads, and thus, by diminishing the volume of business of these roads, lessen the amount of net earnings from which alone the Government is to realize its payments.

We have taken into careful consideration the recommendation of the Commissioner of Railroads (Report 1883, p. 16) that "Congress consider the practicability of commuting the present book account indebtedness for securities having the same lien and of fixed amount and payable at fixed periods."

A bill to effect this purpose, the provisions of which are believed to be the most practical solution of this question, is herewith reported as a substitute for the bill presented by the majority of the committee (H. R. 6771).

The scope of the bill, briefly stated, is to fix a day on which the indebtedness of the companies respectively to the Government shall be ascertained upon the same principle as if the whole debt and interest were to be paid on said day, with a proper rebate of interest at the rate of 3 per centum per annum, and deducting from such amount all payments made by the companies in money or transportation or otherwise, and extending the time at an interest of 3 per centum. The period of extension for payment of the last installment of the indebtedness is forty-six years beyond the date of maturity of the subsidy bonds, or an average extension of the whole debt of twenty-three years.

In consideration of the extension of time thus granted, the companies are required to deposit with the Secretary of the Treasury bonds of redemption for the amount of the debt as ascertained, in specific sums, one bond to mature every six months, and *all* the earnings of the road by Government transportation upon any roads owned, leased, or oper-

ated by the company shall be applied to the payment of the current maturing bonds of redemption, and no money shall be paid by the Government for transportation or service of any kind over the aided or non-aided roads until the bond next maturing shall be fully paid.

It extends the statutory lien and security now subsisting over all roads owned or operated, or hereafter acquired, no matter where situated, by the companies, including telegraph lines, franchises, rolling stock, and property of every kind and description, to remain as security for the bonds of redemption until all are paid, embracing over 5,000 miles of road not now held as security by the Government.

It also requires that the company accepting the provisions of this bill shall also accept the provisions of the Thurman act, voluntarily yielding all questions of the constitutionality of said act.

The plan further provides that either of said companies may prepay and discharge the debt in full at any time, and as an inducement for such prepayment an abatement of 3 per cent. per annum in interest is allowed, and the companies are authorized to mortgage their franchises and property for the purpose of raising funds to redeem these bonds of redemption, if they are able and see fit to do so. The sinking fund heretofore established in the Treasury is continued, and all money paid in liquidation of the bonds of redemption by the companies will be turned into said sinking fund, and the Secretary of the Treasury is authorized and directed to invest such sums in interest-bearing bonds or securities so that the Government shall derive the benefit of the accruing interest to aid in the payment of the subsidy bonds at maturity.

The railroads and telegraph lines are required at all times to be at the service of the Government at rates as low as the lowest accorded to any individual for like service. A failure for six months to pay any of the redemption bonds at maturity, under the provisions of this bill, renders all of said bonds due and payable.

In order that the companies shall partake of the benefits of the proposed plan, they must accept the same under their corporate seals on or before October 1, 1884.

The purpose of the extension proposed is to bring the semi-annual payments sufficiently within the ability of the companies to render such payments entirely certain, and it cannot, in our opinion, be of any vital consequence to the Government whether the debt be paid in fifty or sixty years, so long as its ultimate payment can be certainly secured.

The necessity of this extension further appears from the fact that the first-mortgage bonds of equal amount with the subsidy bonds mature at the same time, and these bonds having under the act of 1864 priority of lien over the Government, which stands in the relation of only a second-lien creditor, must be paid before the Government can obtain anything, and such payment would so strain the resources of the companies that if no extension be given the probabilities are that the foreclosure of the first-mortgage bonds would extinguish the debt of the Government, unless it is prepared to pay for the Union Pacific, including the Kansas Pacific, \$33,532,000, and for the Central Pacific \$27,741,000, to cover the debt with interest of the mortgage which has priority over the Government.

In the event of the companies failing to accept the provisions of the plan of extension, the Thurman sinking fund act remains in full force and effect as to all of the aided roads, including the three lines not hitherto embraced thereunder, with the percentage increased from 25 to 35 per cent. If the Thurman sinking fund act remains in force by

the neglect of the companies to accept the plan heretofore described, then the Secretary of the Treasury is given enlarged power in the investment of the fund.

The Attorney-General is required to look to a strict enforcement of this act.

Believing the plan of adjustment provided for in the bill herewith presented to be preferable to that presented by the majority, we offer the accompanying bill, and recommend its adoption as a substitute for the bill H. R. 6771.

GEO. A. POST.
GEO. W. CASSIDY.
LEWIS HANBACK.
ISAAC M. JORDAN.

A BILL to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purpose," approved July first, eighteen hundred and sixty-two; also to amend an act approved July second, eighteen hundred and sixty-four, and also an act approved May seventh, eighteen hundred and seventy-eight, both in amendment of said first-mentioned act; to provide for a settlement of the claims growing out of the issue of bonds to aid in the construction of said railroads, and to secure to the United States all indebtedness of the companies therein mentioned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to ascertain the present worth, as of the first day of October, 1884, of the indebtedness to the United States of the Central Pacific Railroad Company, the Western Pacific Railroad Company, the Union Pacific Railroad Company, the Kansas Pacific Railroad Company, the Central Branch Union Pacific Railroad Company, and the Sioux City and Pacific Railroad Company, to which subsidy bonds of the United States were advanced in aid of their construction, by adding to the principal of said bonds advanced to each company or to the companies of which such company is the successor, all sums which have been paid, or which are to be paid, by the United States as interest thereon, from which sum, so ascertained, shall be deducted the true discount, computing the same on a basis of three per centum per annum; and he shall deduct from said total so ascertained the amount of money then already in the sinking-fund or reimbursed to the United States by services or otherwise by either of said companies up to and including the 30th day of September, 1884.

SEC. 2. That the several companies mentioned in the preceding section be, and they are hereby, authorized to make, issue, and deliver to the Secretary of the Treasury, who is hereby authorized and directed to receive the same, their one hundred and twenty several bonds of redemption, each bearing date the first day of October, anno Domini eighteen hundred and eighty-four, to an aggregate amount equal to the balance of said indebtedness so computed and ascertained as in section one of this act is provided; and each of said bonds shall provide for and bear interest at the rate of three per centum per annum for the time each bond has to run; and each of said bonds shall be for the equal one hundred and twentieth part of the balance of such debt and interest so ascertained. Each of said bonds shall be payable semi-annually, with interest at three per centum per annum, in lawful money of the United States, the first thereof on the first day of April, eighteen hundred and eighty-five, the second on the first day of October, eighteen hundred and eighty-five, and so on on the first days of April and October in each year thereafter until all said bonds shall have been fully paid and discharged; and each of said bonds, respectively, when paid, shall be thereupon canceled and surrendered to said companies. Said bonds of redemption shall be received by and on behalf of the United States in provisional payment of the bonds so issued by the United States to said companies mentioned in section one of this act: *Provided, however,* That no money shall be paid to the said companies, or either of them, from the United States Treasury, for or on account of services rendered to the United States, or any Department of the Government thereof, over or upon the said railroad and telegraph line so aided by the advances of subsidy bonds, or upon any railroad or telegraph line owned, leased, or operated by said companies, until the bond next maturing shall be fully paid as herein provided; but the obligation to pay said bonds so to be executed to the United States by said companies, and the obligation of the United States to pay for services, shall be deemed otherwise independent.

SEC. 3. That the statutory lien and security created and subsisting under and by virtue of the act of Congress approved July first, eighteen hundred and sixty-two,

and the act of July second, eighteen hundred and sixty-four, and the act of May seventh, eighteen hundred and seventy-eight, to secure the payment of said subsidy bonds, and the interest thereon, including and together with the whole line of the said companies, and also any railroads owned by them, wherever the same may be situated, and all their telegraph lines, rolling stock, fixtures, and property of every kind and description forming a part of the operating property of said companies, as well as that which said companies, their successors or assigns, may hereafter acquire, shall be and remain as security for the payment of the bonds of redemption herein authorized until the same are fully paid: *Provided, however*, That either of said companies, or their successors as aforesaid, shall be entitled at any time to prepay or anticipate the payment and discharge of said bonds of redemption so held in the United States Treasury; and to that end it shall be lawful for either of said companies, its successors or assigns, to make, issue, and dispose of, subject to said lien and security of the United States until the same shall be extinguished, its bonds to an aggregate of the amount of said bonds of redemption which may remain then outstanding and unpaid, together with the amount of the first-mortgage bonds of said companies outstanding, to bear such rate of interest and to run for such term as may be deemed most expedient, and to secure the same by mortgages upon their railroads, telegraph, equipment, franchises, and property; and upon such payment of all said bonds to the United States the said statutory lien and security in favor of the United States shall thereupon cease and be of no effect; but the duty of said companies to obey and perform all the requirements of law in all other respects shall continue to exist; and upon any anticipated payment of said bonds of redemption the Secretary of the Treasury is hereby authorized and directed to abate from said bonds interest on the amount thereof, from and after the date of such payment to the maturity thereof, at the rate of three per centum per annum.

SEC. 4. That all sums now in the sinking fund established in the Treasury of the United States by the provisions of section three of the act of May seven, eighteen hundred and seventy-eight, (including all sums heretofore reimbursed to the United States by services or otherwise by said several railroad companies, and to the credit of said companies in the United States Treasury, uninvested), shall remain in said sinking fund, and all sums derived from time to time from the payment of the bonds of redemption, either in cash or by services rendered by the said several railroad companies, shall be turned into the said sinking fund, and the Secretary of the Treasury is hereby authorized to invest the said sinking fund in the first-mortgage bonds of said companies prior in lien to the Government, or bonds or securities of the United States, in his discretion, and said sinking fund shall be held and applied as in sections seven and eight of said act of May seven, eighteen hundred and seventy-eight, provided.

SEC. 5. That so long as said companies respectively shall keep the said railroads and telegraph lines in proper repair and use, and shall at all times transmit dispatches over said telegraph lines, and transport mails, troops, munitions of war, and supplies of public stores upon said railroads for the Government, or any Department thereof, whenever required to do so (at fair and reasonable rates of compensation, not to exceed the lowest rates paid by any private party for the same kind of service), and shall give the Government preference in the use of the same for all the purposes aforesaid, as mentioned in the sixth section of the act of July first, eighteen hundred and sixty-two, and shall make punctual payment of the said bonds of redemption, no other or further sums shall be demanded or required of the company so performing said service and complying with this act; and none of the penalties or liabilities provided for in either of said acts shall be incurred by or enforced upon such said companies while such punctual payments shall continue, but all such payments, requirements, penalties, and liabilities shall be suspended and not deemed to be due, or payable, owing, or incurred, until default of some of the provisions hereof shall be made, and shall have continued for a period of three months, in which case they shall, at the option of the United States, stand revived and continue in force in the same manner and to the same extent as if this act had not been passed.

SEC. 6. That the acceptance of this act shall be deemed and held to be an acceptance of the act approved May seventh, eighteen hundred and seventy-eight, entitled "An act to alter and amend the act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July first, eighteen hundred and sixty-two," and also to alter and amend the act of Congress approved July second, eighteen hundred and sixty-four, in amendment of said first-mentioned act.

SEC. 7. That a failure for six months to pay any of said redemption bonds shall be deemed, taken, and held to make all the said bonds due and payable, and all the rights and securities of the United States may be thereupon enforced.

SEC. 8. That this act shall take effect, as to each of said companies or the successors thereof, upon its acceptance by its board of directors, and under its corporate seal, signed by its president and countersigned by its secretary, being filed or deposited with

the Secretary of the Treasury, on or before the first day of October, anno Domini eighteen hundred and eighty-four; but if such acceptance be not so filed on or before that day, said company shall take no benefit therefrom.

SEC. 9. That in the event that any of said companies shall fail to accept the foregoing provisions of this act, there shall be charged and collected from such company or companies so failing, from and after the first day of October, 1884, thirty-five per centum of their annual net earnings, to be ascertained as provided in section one of the act of May 7th, 1878, in lieu of the twenty five per centum provided for in said act, and to that end said act of May 7th, 1878, commonly called the "Thurman sinking-fund act," and any and all amendments or modifications thereof, be, and the same are hereby, extended to the Kansas Pacific Railroad Company, to the Sioux City and Pacific Railroad Company, and to the Central Branch of the Union Pacific Railroad Company; and said act, and all amendments or modifications thereof, shall henceforth apply to said corporations equally as to those specifically named in said act.

SEC. 10. That in the event of the non-acceptance of the provisions of this act by said companies it is further provided that section three of said act of May seventh, eighteen hundred and seventy-eight, is so amended as to allow the Secretary of the Treasury to invest the sinking-funds of said companies in the first-mortgage bonds of said companies, or any bonds or securities of the United States, in his discretion; or he may, with the assent of the companies, apply the same to the extinguishment of the interest of the subsidy bonds, the Government to refund the same on demand at any time, if at any time it becomes necessary in order to meet any debts or obligations of the said corporations prior in lien to said interest.

SEC. 11. That it shall be the duty of the Attorney-General to cause the provisions of this act to be enforced, and he shall take all steps needful to that end, and shall report to the President each year or oftener thereon.

SEC. 12. That this act shall be deemed and taken to be a public act to all intents and purposes.